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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

2010 JUN 21 A 9:31

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

AZ CORP COMMISSION  
DOCKET CONTROL

In the matter of:

DOCKET NO. S-20714A-09-0553

THEODORE J. HOGAN & ASSOCIATES,  
LLC a.k.a. TED HOGAN AND  
ASSOCIATES, an Arizona limited liability  
company,

**SECURITIES DIVISION'S RESPONSE  
TO RENEWED MOTIONS TO DISMISS**

(Assigned to the Hon. Marc E. Stern)

THEODORE J. HOGAN a.k.a. TED KILLS  
IN THE FOG, a married man

and

CHRISTINA L. DAMITIO a.k.a.  
CHRISTINA HOGAN, a married woman

Respondents.

Arizona Corporation Commission

**DOCKETED**

JUN 21 2010

DOCKETED BY

**I. INTRODUCTION**

On December 8, 2009, the Securities Division of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing against respondents Theodore J. Hogan & Associates, LLC, a.k.a. Ted Hogan and Associates ("Hogan & Associates"), Theodore J. Hogan a.k.a. Ted Kills In The Fog ("Hogan"), and Christina L. Damitio a.k.a. Christina Hogan ("Damitio"). On December 22, 2009, Hogan and Damitio filed a Request-Order for Discovery-Answer and requested a hearing. On January 7, 2010, the Securities Division filed a Response to the Request-Order For Discovery-Answer. On February 1, 2010, Administrative Law Judge Stern issued a Procedural Order scheduling an evidentiary hearing for June 15, 2010. Pursuant to the Procedural Order, the Securities Division was to provide its witness list and exhibits to the Respondents by April 23, 2010. The Securities Division filed a Notice of Compliance with Procedural Order on April 27, 2010. The Respondents were to provide its witness list and exhibits

1 to the Securities Division by May 21, 2010. On May 21, 2010, Hogan and Damitio filed separate  
2 Motions to Dismiss. On May 25, 2010, the Securities Division filed its Response to the Motions to  
3 Dismiss. The ALJ issued a Procedural Order on May 27, 2010 that denied the Motions to Dismiss.  
4 On May 24, 2010, the Securities Division filed a Motion for Telephonic Testimony. On June 7,  
5 2010, Damitio filed her response to the Securities Division's Motion to Allow Telephonic  
6 Testimony. On June 8, 2010, Hogan filed his response and another Motion to Dismiss. The  
7 Securities Division submitted its Reply on June 10, 2010.

8 On June 15, 2010, the administrative hearing began. Also on June 15, 2010, Hogan and  
9 Damitio filed their Renewed Motions to Dismiss.

## 10 **II. RENEWED MOTIONS TO DISMISS**

11 On May 21, 2010, Hogan and Damitio filed Motions to Dismiss claiming that they were  
12 entitled to full discovery. After the Securities Division responded, on May 27, 2010, ALJ Stern  
13 denied their Motion to Dismiss. Hogan and Damitio renewed their Motions to Dismiss asserting  
14 that the Securities Division failed to provide "the entire discovery" as ordered by ALJ Stern. *See*  
15 *Damitio's June 7, 2010 Response to the Securities Division Motion for Telephonic Testimony and*  
16 *Hogan's June 8, 2010 Motion-to-Dismiss Docket No. S-20714A-09-0553.* On June 15, 2010,  
17 Hogan and Damitio filed documents that appear to again request that this matter be dismissed.

18 For the reasons cited in the Securities Division's previous Response and Reply, the  
19 Renewed Motions to Dismiss should be denied.

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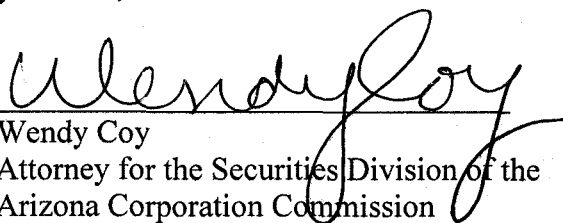
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1 **III. CONCLUSION**

2 There is no basis to grant Hogan's and Damitio's Motions to Dismiss. The Securities  
3 Division is in the process of presenting its evidence to support the allegations set forth in the  
4 Notice of Opportunity. Hogan and Damitio will have an opportunity to present evidence to support  
5 their respective positions at the administrative hearing. The Renewed Motions to Dismiss should be  
6 denied.

7 RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2010.

8  
9 By   
10 Wendy Coy  
11 Attorney for the Securities Division of the  
Arizona Corporation Commission

12 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing  
13 filed this 21<sup>st</sup> day of June, 2010, with

14 Docket Control  
15 Arizona Corporation Commission  
1200 West Washington  
Phoenix, AZ 85007

16 COPY of the foregoing hand-delivered this  
17 21<sup>st</sup> day of June, 2010, to:

18 ALJ Marc Stern  
19 Arizona Corporation Commission/Hearing Division  
1200 West Washington  
Phoenix, AZ 85007

20 3 COPIES of the foregoing hand-delivered  
21 this 21<sup>st</sup> day of June, 2010, to:

22 THEODORE J. HOGAN & ASSOCIATES  
23 THEODORE J. HOGAN, and  
CHRISTINA L. DAMITIO  
460 Andante  
Sedona, Arizona 86336

24 By:   
25  
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